

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WISCONSIN

N.L., a minor, by his mother
and guardian, T.T,

Plaintiffs,

v.

Case No.: 10-CV-524-slc

CITY OF HUDSON, ST. CROIX COUNTY,
ST. CROIX COUNTY SHERIFF'S DEPARTMENT,
JOSHUA STENSETH, individually and in his
capacity as an officer of the St. Croix County
Sheriff's Department, and DANIEL C. CHRISTENSON,

Defendants.

**PETITION FOR APPROVAL OF MINOR SETTLEMENT PURSUANT TO RULE
807.10**

T.T., Petitioner herein and Parent and Natural Guardian of Plaintiff N.L a minor,
respectfully show the court the following:

1. Petitioner T.T. ("Petitioner") is the parent (mother) and natural guardian of Plaintiff N.L.
2. Plaintiff N.L. ("Plaintiff") was born on May 12, 1994 and is a resident of Hudson, Wisconsin. Plaintiff is seventeen (17) years old and will turn eighteen (18) on May 12, 2012.
3. This action was commenced on Plaintiff's behalf against the above named Defendants in September 2010.

4. City of Hudson is a municipality duly incorporated, organized, and existing under the laws of the State of Wisconsin.
5. St. Croix County is a municipality duly incorporated, organized, and existing under the laws of the State of Wisconsin.
6. Joshua Stenseth is a K-9 deputy officer with the St. Croix County Sheriff's Department and was the dog handler of "Ace", the K-9 which bit Plaintiff N.L. subject to this litigation.
7. St. Croix County Sheriff's Department employed deputy Stenseth.
8. Daniel C. Christenson is Father to Z.C., Plaintiff N.L.'s high school friend. At the time of the events giving rise to this action, Daniel C. Christenson resided at 1321 St. Croix Heights, Hudson, WI 54016 ("Christenson Residence").
9. The above action arose on October 17, 2009, when N.L. was with his friend, Z.C., at the Christenson Residence.
10. Defendant Daniel C. Christenson arrived home and started shooting a gun within the Christenson Residence while Z.C, N.L and two other teenage friends were in the basement.
11. Z.C., N.L. and the two other individuals escaped from the Christenson Residence by breaking a basement window, crawling through it and running from the house.
12. N.L. was apprehended and bitten by St. Croix County Sheriff's Department K-9 dog "Ace" as he ran away from the house.
13. N.L sustained injuries to his right arm due to being bitten multiple times by "Ace". N.L. also sustained a puncture wound on his upper right stomach area.
14. Petitioner hired Meshbesh & Spence, Ltd. ("Meshbesh"), on December 29, 2009, to represent Plaintiff in asserting claims against Defendants. Petitioner agreed to pay Meshbesh a fee of one-third (1/3) of the total recovery, together with costs, disbursements and expenses. Petitioner feels this was, and is, a fair and reasonable fee arrangement.

15. Plaintiff asserted various claims against Defendants including use of excessive force, civil rights violation, strict liability, assault & battery, false imprisonment, negligence, intentional infliction of emotional distress, negligent infliction of emotional distress, agency and vicarious liability/respondent superior.
16. Defendant Daniel C. Christenson pleaded guilty to amended charges including two counts of felony reckless endangerment and one misdemeanor charge for operating a firearm while intoxicated on January 14, 2011. (St. Croix County Case No. 2009CF000363).
17. Plaintiff sought monetary damages for his injuries including, but not limited to, personal injury and mental and emotional distress.
18. Plaintiff suffered, and will in the future continue to suffer, damages including, but not limited to, personal injury and emotional distress.
19. On October 20, 2009, N.L. underwent surgery consisting of revascularization or repair of the brachial artery with vein grafting to his upper left leg at Regions Hospital (St. Paul, MN). This was performed in connection with the surgery done to repair the damage to N.L.'s right arm, where he was bit by "Ace".
20. Plaintiff has permanent scarring due to the incident that occurred on October 17, 2009.
21. Subject to court approval, and for the purpose of avoiding a trial with the City of Hudson, St. Croix County Sheriff's Department, St. Croix County and Joshua Stenseth, Plaintiff and Defendants City of Hudson, St. Croix County Sheriff's Department, St. Croix County and Joshua Stenseth agreed to settle Plaintiff's claim against them in the above action on a Pierringer Release basis for a lump sum payment of \$210,000.00, with Plaintiff preserving all of his rights and claims against Defendant Daniel C. Christenson.
22. The settlement agreement was reached at a mediation conducted with Ms. Marie Stanton, Hurley, Burish & Stanton, S.C., Madison, Wisconsin, on September 30, 2011.
23. Defendants City of Hudson, St. Croix County Sheriff's Department, St. Croix County and Joshua Stenseth, through their insurance carriers, Wisconsin

- Municipal Mutual Insurance Company (4785 Hayes Road, Madison, WI 53704-7364) and League of Wisconsin Municipalities Mutual Insurance (402 Gammon Place, Suite 225, Madison, WI 53719), will pay the sum of \$210,000.00 pursuant to the terms of the settlement agreement upon the Court's approval of this Petition for Approval of Minor Settlement.
24. The total costs, disbursements and expenses incurred by, and which are due and owing to, Meshbesh, equal \$17,377.38, and are itemized in Exhibit 1 attached hereto.
 25. Plaintiff N.L.'s billed medical expenses totaled \$65,341.66. Gibson & Sharps represent WEA Insurance Group and had a subrogation lien claim in the amount of \$45,602.27, which Meshbesh was able to negotiate down to \$22,000.00.
 26. The State of Wisconsin, Crime Victim Compensation Program has a lien claim in the amount of \$933.93, which Meshbesh was able to negotiate down to \$622.62.
 27. Petitioner believes the costs incurred herein are fair, reasonable and were necessary, and should be paid to Meshbesh.
 28. Petitioner has been advised that Plaintiff can proceed to trial but, based upon the fact liability was being strongly contested, the uncertainty of a jury verdict as to the Defendants City of Hudson, St. Croix County Sheriff's Department, St. Croix County and Joshua Stenseth, Petitioner believes it is in Plaintiff's best interest to settle his claims without proceeding to trial and to accept a settlement on the terms stated herein.
 29. Petitioner also recognizes the risks of this litigation as to the settling Defendants in light of the pending motions for summary judgment filed by these settling Defendants. By Stipulation and subsequent Order, the Court previously dismissed certain claims against the City of Hudson.
 30. Petitioner acknowledges that upon the court's approval of this Petition and the payment of the \$210,000.00, Plaintiff waives any and all of his rights to assert any claims as against Defendants City of Hudson, St. Croix County Sheriff's Department, St. Croix County and Joshua Stenseth, or Wisconsin Municipal Mutual Insurance Company and League of Wisconsin Municipalities Mutual Insurance, for the events giving rise to this action,

reserving only Plaintiff's right to proceed with his claim(s) against Defendant Daniel C. Christenson. Upon acceptance of the \$210,000.00, Plaintiff releases and discharges Defendants City of Hudson, St. Croix County Sheriff's Department, St. Croix County and Joshua Stenseth from any and all demands, actions, causes of action, and claims for relief of any kind and nature whatsoever, whether known, unknown, anticipated and unanticipated, suspected and unsuspected, past or present, arising out of the events of October 17, 2009.

31. Petitioner seeks an Order Approving Minor Settlement directing that the \$210,000.00 proceeds, after deductions and payments for Meshbesh's fees, costs, disbursements and expenses incurred in this litigation, and the payment of all subrogation claims, be deposited in a money market account at Associated Bank, 307 2nd Street, Hudson, Wisconsin, 54016, which remaining proceeds (together with any accrued interest thereon) shall not be released to Plaintiff until May 12, 2012, the date Plaintiff turns eighteen (18) years of age, at which time all proceeds in said account shall be distributed to Plaintiff upon demand. Petitioner will establish a money market account in Plaintiff's name.

Petitioner seeks an Order Approving Minor Settlement directing that the \$210,000 proceeds be distributed as follows:

That Meshbesh & Spence, Ltd. has claims out of the settlement as follows:

Meshbesh & Spence, Ltd.,
33 1/3% attorneys' fees. \$70,000.00

Meshbesh & Spence, Ltd., (costs/ expenses) . . \$17,377.38

TOTAL. \$87,377.38

The following providers shall be paid their medical subrogation interests:

Gibson & Sharps/WEA Insurance. \$22,000.00

Wisconsin Crime Victim Compensation \$622.62

TOTAL. \$22,622.62

Subtracting the Meshbsher fees, costs and disbursements (\$87,377.38) and the subrogation claims (\$22,622.62) from the \$210,000.00 settlement leaves a balance of \$100,000.00, which sum shall be put into a money market account at Associated Bank, 307 2nd Street, Hudson, WI 54016, until May 12, 2012, on which date N.L. shall attain the age of eighteen (18) years of age; and that receipt, certificate or bank book evidencing deposit of said sum shall be forwarded to the court administrator of the above Court for safekeeping within five days after receipt of the deposit. That Associated Bank shall make no disbursement from the deposit except upon order of the Court, and that a copy of the Court's Order shall be provided to Associated Bank at or before the time of deposit. That on or after May 12, 2012, N.L. shall be entitled to all proceeds in the money market account.

32. That petitioner will provide Associated Bank with N.L.'s tax identification number or social security number.
33. Being that Plaintiff N.L. is a minor, Petitioner will provide copies of Plaintiff N.L.'s medical records upon request from the Court.
34. Petitioner is satisfied the proposed settlement is just, reasonable and proper under the circumstances and it satisfies all claims against Defendants City of Hudson, St. Croix County Sheriff's Department, St. Croix County and Joshua Stenseth arising out of the events of October 17, 2009.
35. Plaintiff respectfully request the court waive N.L.'s hearing regarding the Order Approving Minor Settlement and Distribution of Funds for Petition and base its decision solely on this Petition.

WHEREFORE, Petitioner prays to the court for an Order as follows:

1. Directing the approval of the settlement between Plaintiff and Defendants City of Hudson, St. Croix County Sheriff's Department, St. Croix County and Joshua Stenseth, and disbursement of the settlement proceeds, on the terms set forth above.

2. Waiving the hearing for the Order to approve this Petition.
3. Any other relief the Court deems just and necessary.

s/ Tara C. Tuchel
Petitioner, Parent and Natural Guardian of
Plaintiff N.L.

Subscribed and sworn to before me
this 18 day of October, 2011

s/ Sandra R. Manor
Notary Public – Minnesota
My Commission Expires Jan. 31, 2015

Dated: 10/18, 2011

By: s/ Konstandinos Nicklow
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